

Remarks

Claims 1-46 were pending. Claims 7, 13, 16 and 19 have been canceled; Claims 1, 5, 8, 10, 11, 14, 17, 20, 22, 23, 25 and 26 are amended. No new matter is added. Support for the amending language "50 top ranked genes" may be found in the specification at paragraph 35.

Applicants hereby elect to prosecute the claims of Group 1, without traverse. Applicants expressly reserve the right under 35 USC §121 to file a divisional application directed to the non-elected subject matter or any subject matter disclosed in this application during the pendency of this application.

In response to the sequence election requirement, Applicants note that the present claims are drawn to a method wherein the expression of at least 10 distinct sequences is obtained for analysis. Such a complex expression profile provides for a robust prediction that is not obtained with profiling of a single sequence. The claims are further amended to recite the top-ranked 50 sequences set forth in Table 3.

Applicants respectfully submit that the sequences themselves are not being claimed, as all of the sequences recited in the present application are publicly available and known in the art. Rather, Applicants have provided a means of utilizing information from multiple sequences. As the claims require a minimum of 10 sequences, an election cannot be made of a single sequence.

The difficulties of the Patent Office in searching is understood, and for purposes of searching Applicants provisionally elect the top-ranked sequences set forth in Table 3, however it is respectfully submitted that claims that recite obtaining expression data from at least 10 or at least 25 sequences are not usefully limited to a single polypeptide or polynucleotide sequence.

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16 and 1.17 which may be required by this paper, or to credit any overpayment, to Deposit Account No. 50-0815, order number STAN-277.

Respectfully submitted,  
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